

REMARKS

After entry of this response, claims 2-4, 9, 12, 14, 15, and 26-28 remain pending in the present application. Applicant respectfully requests reconsideration by the Examiner in light of the following remarks.

I. Office Action Improperly Made FINAL

Before considering the Final Rejection in detail, it is respectfully submitted that this Office Action was improperly made FINAL. The Office Action acknowledged that the rejection was based on a new ground in noting that Applicant's arguments with respect to claims 2-4, 9, 12, 14, 15, and 26-28 have been considered but are moot in view of the new ground of rejection. The rejection constitutes a new ground of rejection not presented in the previous Office Action. Applicant's sole claim amendments in the previous response simply placed claims 2 and 26 in independent form by incorporating the subject matter of (now cancelled) claims 1 and 25 respectively. Nor had the Wilson reference been previously been applied in a rejection of the claims. Because citing the Wilson reference against claims 2-4, 9, 12, 14, 15, and 26-28 constitutes a new ground of rejection not necessitated by an amendment to the claims, the current Office Action was improperly made FINAL. It is therefore requested that the Examiner withdraw the finality of the rejection.

II. Rejection under 35 USC § 102

Claims 2-4, 9, 12, 14, 15, and 26-28 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wilson et al. (US 5,908,392 hereinafter "Wilson"). Applicant respectfully traverses the rejection.

All claims of the present application require that the data collected be successively stored at two temporal resolution levels. The first required resolution

level is the resolution at initial storage in short term memory, which resolution is less than that of the sampled signal. The stored values are accumulated over a storage interval associated with the short term memory. It is acknowledged that Wilson discloses this aspect of the invention.

The second level of resolution is storage in a long term memory at a level of temporal resolution corresponding to the duration of the storage interval defined by the temporary memory. This aspect of the invention is not disclosed by Wilson. In Wilson, the contents of selected data sets stored in temporary memory are transferred intact into long term storage at the same temporal resolution at which they were stored in temporary memory. The purpose for this is to allow later, detailed examination of the selected intervals of stored data, at the resolution at which they were initially stored. This purpose would be frustrated by storing data as required by the invention as presently claimed. As such, Wilson not only fails to teach the invention as claimed, but affirmatively teaches away from it.

The invention as claimed is directed to condensing the totality of data collected over long time durations for later analysis. The storage mechanism disclosed in Wilson is directed to a different and inconsistent purpose, the storage of selected snippets of information collected over long time durations. The present invention keeps all of the data, albeit in more compressed form. The storage mechanism of the Wilson reference requires discarding much of the data collected. It is respectfully asserted that Claims 1 and 25 as originally filed were in fact novel over Wilson, even absent incorporation of the limitations of claim 2 and 25.

Withdrawal of the rejection over Wilson is respectfully requested.

II. Conclusion

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

July 24, 2009
Date

/Reed A. Duthler/
Reed A. Duthler
Reg. No. 30,626
(763) 526-1564
Customer No. 27581